

Filed 10/31/22 Stewart v. Superior Court CA2/1

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

MYLES STEWART,

Petitioner,

v.

THE SUPERIOR COURT OF  
LOS ANGELES COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

B317959

(Los Angeles County  
Super. Ct. No. LA0888741)

ORIGINAL PROCEEDINGS in mandate; Gregory A. Dohi,  
Judge. Petition dismissed.

Ricardo D. Garcia, Public Defender, Albert J. Menaster,  
Head Deputy Public Defender, Jacob Kachatryan and Nick  
Stewart-Oaten, Deputy Public Defenders for Petitioner Myles  
Stewart.

Rob Bonta, Attorney General, Lance E. Winters, Chief Assistant Attorney General, Susan Sullivan Pithey, Assistant Attorney General, Michael R. Johnson, David E. Madeo, David Glassman and William H. Shin, Deputy Attorneys General for Real Party in Interest.

No appearance for Respondent Superior Court of Los Angeles County.

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## I.

On October 10, 2019, petitioner Myles Stewart pleaded no contest to first degree burglary. (Pen. Code, § 459.) The superior court suspended the imposition of sentence and placed him on probation for five years, subject to certain conditions.

In January 2022, after the Legislature amended Penal Code section 1203.1 to limit, generally, felony probation terms to two years, Stewart made a motion in the superior court to terminate his probation. The court denied the motion, and Stewart sought review before us by petition for writ of mandate. We issued an order to show cause.

Meanwhile, on May 31, 2022, the superior court issued an order reducing Stewart’s probation to three years. On October 10, 2022—the third anniversary of the order placing Stewart on probation—the court terminated Stewart’s probation, stating that it had been “successfully completed.”

On October 20, 2022, we informed the parties that we were considering: (1) taking judicial notice of the facts that the superior court had reduced Stewart’s probation to three years and thereafter terminated probation; and (2) dismissing the petitioner’s petition on the ground that this case is moot. We

requested that Stewart and the People submit supplemental briefs on these issues. (See Evid. Code, § 459, subd. (d); Gov. Code, § 68081.)

We have received and considered the requested supplemental briefs. Both parties agree that the case is moot. The People assert that we should dismiss Stewart's petition, and Stewart has no objection to our doing so.

## II.

Pursuant to Evidence Code section 452, subdivisions (d) & (h), and section 459, subdivision (a), we take judicial notice of the facts that in May 2022 the superior court reduced Stewart's probation to three years and, on October 10, 2022, the court terminated Stewart's probation.

"A case becomes moot when a court ruling can have no practical impact." (*Simi Corp. v. Garamendi* (2003) 109 Cal.App.4th 1496, 1503.) " "[A]lthough a case may originally present an existing controversy, if before decision it has, through act of the parties or other cause, occurring after the commencement of the action, lost that essential character, it becomes a moot case or question which will not be considered by the court." ' ' ' (*Consumer Cause, Inc. v. Johnson & Johnson* (2005) 132 Cal.App.4th 1175, 1183.)

Here, Stewart sought an order in the superior court requesting that his probation be terminated, which the court denied. By the instant writ petition, he challenges that order and seeks a writ directing the superior court to discharge him from probation. Because the superior court has now terminated his probation, there is no further relief we can grant. Accordingly, the issues raised in the petition are moot and the case is dismissed.

**DISPOSITION**

The petition is dismissed.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

I concur.

BENDIX, J.

BENKE, J.\*

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\* Retired Associate Justice of the Court of Appeal, Fourth Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.